

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UTHERVERSE GAMING LLC,

Plaintiff,

v.

EPIC GAMES INC,

Defendant.

Case No. 2:21-cv-00799-RSM-TLF

ORDER GRANTING MOTION FOR
ISSUANCE OF LETTER
ROGATORY

This matter comes before the Court on defendant's motion for issuance of letter rogatory. Dkt. 68. Defendant seeks a letter rogatory addressed to the appropriate judicial authority of British Columbia, Canada "seeking documentary evidence and testimony from inventors of the asserted patents and from the company that developed the alleged inventions and to which the patents were initially issued." Dkt. 68. Plaintiff is not opposed defendant's motion.

Pursuant to 28 U.S.C. § 1781(a)(2) federal courts have the inherent authority to issue letters rogatory or request to obtain discovery from foreign persons or entities. *United States v. Staples*, 256 F.2d 290, 292 (9th Cir. 1958). Under Rule 28(b) of the Federal Rules of Civil Procedure, a letter rogatory may be issued on terms that are just and appropriate. *Marroquin-Manriquez v. Immigration & Naturalization Services*, 699 F.2d 129, 135 (3rd Cir. 1983). The decision to issue a letter rogatory falls within the discretion of the court. *United States v. Sedaghaty*, 728 F.3d 885, 917 (9th Cir. 2013).

1 The court ordinarily does not weigh the evidence sought or consider whether the
2 witness will be able to provide the anticipated evidence, rather the court considers
3 whether "good reason" exists to deny issuance of the letter rogatory. *In re Cedar Shake*
4 & *Shingle Antitrust Litig.*, No. 2:19-cv-0288-MJP, 2020 WL 39144 (W.D. Was. Jan 2,
5 2020).

6 Here, defendant seeks discovery from the inventors of the disputed patents
7 (Brian Shuster, Gary Shuster and Aaron Burch) and the company that developed the
8 disputed patents (Utherverse Digital Inc.). Dkt. 68. This evidence appears directly
9 relevant to the issues in this litigation. Fed. R. Civ. P. 26(b). Plaintiff has not opposed
10 defendant's motion for issuance of letter rogatory.

11 Based on the asserted relevance of the discovery sought and the absence of
12 objection, the Court finds good cause to grant defendant's motion. Dkt. 68. The Clerk's
13 Office is directed to issue a Letter Rogatory in the form attached as Exhibit A. The Court
14 shall transmit the letter rogatory to defendant's counsel.

15 Dated this 18th day of May, 2022.

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19 Theresa L. Fricke
United States Magistrate Judge
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